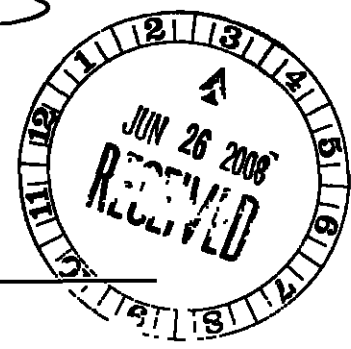


222673



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB DOCKET NO. AB-409 (Sub- No. 5X)**

**LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY  
ABANDONMENT EXEMPTION  
IN LOS ANGELES COUNTY, CA**

ENTERED  
Office of Proceedings  
JUN 26 2008  
Part of  
Public Record

**COMMENTS OF JAMES RIFFIN**

1. Notice is herewith given that James Riffin ("Riffin" or "Protestant") intends to participate as a party of record in the above entitled proceeding. All documents, filings or decisions in the above entitled case should be served on Riffin at:

James Riffin  
1941 Greenspring Drive  
Timonium, MD 21093  
(443) 414-6210

2. Riffin, pursuant to the applicable regulations of the Surface Transportation Board ("STB" or "Board") herewith files his Comments on Los Angeles County Metropolitan Transportation Authority's ("LAMTA") Notice of Exemption ("NOE") to Abandon 0.31 miles of rail line in Los Angeles County, CA, which NOE is the subject of the above entitled case, and states:

3. On May 29, 2008 LAMTA filed a Notice of Exemption ("NOE") to abandon 0.31 miles of the Santa Monica Industrial Lead between mileposts 485.69 and 486.00, a distance of 0.31 miles, in Los Angeles County, California ("Line").

4. A. Protestant's Business: Riffin is a Class III railroad.

B. Riffin's interest in the proceeding: Riffin's has an interest in acquiring this line of railroad.

C. Riffin does not represent any group or other public interest.

5. In the NOE, LAMTA failed to apprise the Board that the Santa Monica Industrial Lead is a stub-ended line, and that if LAMTA were to abandon the first 0.31 miles of the Line, then the remaining 1.72 miles of the Line would become a stranded segment.

6. LAMTA purchased the Santa Monica Industrial Lead from Southern Pacific in 1992.

7. In *Southern Pac. Transp. Co. – Abandonment Exemption – Los Angeles County, CA*, 8 ICC 2d 495 at 508 (1992) (“*SP 139X*”), the Interstate Commerce Commission (“**Commission**”) held that when LAMTA acquired the Line, it also acquired the common carrier obligations associated with the Line.

8. In *SP 139X*, in footnote 13 on p. 510, the Commission indicated LAMTA (or more precisely, LACTC, LAMTA’s predecessor), purchased that portion of the Santa Monica Industrial Lead that lies between MP 485.69, at the intersection of LAMTA’s “Blue Line,” and the end of the Line at MP 499.89, at the east boundary of 17<sup>th</sup> Street, in Santa Monica, a total distance of 14.2 miles.

9. In *SP 139X*, SP sought abandonment authority for that portion of the Santa Monica Industrial Lead that lies between MP 487.72, near Grand Avenue, to milepost 494.64, near Culver Junction, a total distance of 6.93 miles. See fn 21, p. 514. Since the Commission held LAMTA had acquired the common carrier obligations associated with the Line when it acquired the Line, the Commission revoked SP’s NOE, then on its own motion, granted SP authority to discontinue service on the portion of the Line that lies between MP 487.72 and MP 494.64.

10. In *SP 139X* at p. 512, the Commission exempted LAMTA (LACTC) from 49 U.S.C. Subtitle IV for that portion of the Line that lies between MP 487.72 and MP 494.64. The Commission specifically stated **the exemption was limited to that portion of the Line that was the subject of SP’s abandonment exemption, which was between MP 487.72 and MP 494.64.** See *SP 139X* at p. 513.

11. In footnote 25 on p. 518, the Commission noted Offers of Financial Assistance for that portion of the Line which was exempted from 49 U.S.C. SubTitle IV, (between MP 487.72 and MP 494.64), would be futile, since the Commission had granted LACTC (LAMTA) authority to abandon this portion of the Line at will.

12. Careful study of *SP 139X* reveals:

- A. LAMTA (LACTC) acquired the portion of the Line that lies between MP 485.69 and MP 499.89, at the end of the Line, a total distance of 14.2 miles.
- B. LAMTA acquired the common carrier obligations associated with the entire 14.2 mile Line.
- C. LAMTA was exempted from 49 U.S.C. Subtitle IV for that portion of the Line that lies between MP 487.72, at Grand Ave, and MP 494.64. For this portion of the Line, LAMTA could abandon the Line without any further action by the Commission.
- D. For that portion of the Line that was between MP 485.69, at LACTC's "Blue Line," and MP 487.72, at Grand Ave, LACTC (LAMTA) became the common carrier. This portion of the Line was subject to full Commission jurisdiction.

13. Careful study of aerial photographs [available at [www.maps.live.com](http://www.maps.live.com)] of the Line between MP 487.72, at Grand Ave (2 blocks east of the I-110 freeway), and MP 494.64, revealed that LACTC (LAMTA) exercised its abandonment authority for this portion of the Line. The I-110 freeway severed the Line. Immediately west of the I-110 freeway, a coliseum was built on the right-of-way. Large portions of the Line were removed or paved over.

14. Careful study of aerial photographs [available at [www.maps.live.com](http://www.maps.live.com)] of the Line between MP 485.91 and MP 487.72, would reveal that **the Line does not intersect, nor does it connect with, any other rail line.** This conclusively establishes that the Line is a stub-ended Line.

15. Abandonment authority for that portion of the Line that lies between MP 485.69, at Long Beach Ave, and MP 487.72, at Grand Avenue, **was never sought nor granted.**

16. In its NOE, LAMTA seeks abandonment authority for that portion of the Line that lies between MP 485.69 and 486.00, a distance of 0.31 miles. LAMTA **did not comment** on the remaining portion of the Line that lies between MP 486.00 and MP 487.72.

17. The abandonment authority LAMTA seeks, for the portion of the Line that lies between MP 485.69 and MP 486.00, if granted, **would leave an unlawful stranded segment between MP 486.00 and MP 487.72.**

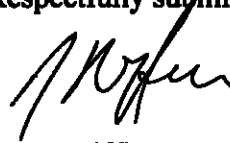
18. LAMTA has common carrier obligations associated with the portion of the Line that lies between MP 486.00 and 487.72. To provide rail service for future shippers, the 0.31 miles of the Line between MP 485.69 and 486.00, must be preserved. If a shipper on the portion of the Line that lies between MP 486.00 and 487.72 were to demand service, then the provider of that service (LAMTA), would have to use that portion of the Line that lies between MP 485.69 and 486.00, in order to gain access to the national rail transportation system.

19. LAMTA failed to reveal to the Board that the Line was a stub-ended Line; failed to reveal to the Board that if abandonment authority for the portion of the Line that lies between MP 485.69 and 486.00 were to be granted, that would create an unlawful stranded segment; and would leave LAMTA with a stranded obligation to provide common carrier service from MP 486.00 to MP 487.72. Riffin would argue that due to the above infirmities, the Board **must reject LAMTA's NOE.**

20. The following quote on p.4 of EP 678, Served April 23, 2008, seems very appropriate:

**"In some cases railroads have taken actions affecting rail property without first seeking abandonment authority. When this occurs on inactive lines, we generally do not discover these action until after the fact when the carrier seeks abandonment authority. Such actions are unlawful. Not only is the rail line unlawfully severed from the national transportation system when this occurs, but the Board's ability to carry out its obligation under NEPA and NHPA may then be adversely affected. ... Railroads that take such actions may find ... that obtaining abandonment authority is delayed ... ."**

Respectfully submitted,



James Riffin

**CERTIFICATE OF SERVICE**

I hereby certify that on this 25<sup>th</sup> day of June, 2008, a copy of the foregoing Comments of James Riffin, was served by first class mail, postage prepaid, upon Charles Spitulnik, Kaplan Kirsch Rockwell, Ste 905, 1001 Connecticut Ave, N.W., Washington, DC 20036, counsel for LAMTA.



James Riffin